

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE NOVEMBER TEAM, INC.; ANAT GERSTEIN,
INC., BERLINROSEN PUBLIC AFFAIRS, LTD.; RISA
HELLER COMMUNICATIONS LLC; and MERCURY
LLC,

Plaintiffs,

-against-

NEW YORK STATE JOINT COMMISSION ON
PUBLIC ETHICS; and DANIEL J. HORWITZ, DAVID
ARROYO, HON. JOSEPH COVELLO, MARVIN E.
JACOB, SEYMOUR KNOX IV, HON. EILEEN
KORETZ, GARY J. LAVINE, HON. MARY LOU
RATH, DAVID A. RENZI, MICHAEL A. ROMEO,
HON. RENEE R. ROTH, MICHAEL K. ROZEN,
DAWN L. SMALLS, and GEORGE H. WEISMAN, in
their official capacities as members of the New York
State Joint Commission on Public Ethics,

Defendants.

No. 16 Civ. _____

**DECLARATION OF ANDREW G. CELLI, JR. IN SUPPORT OF PLAINTIFFS’
MOTION FOR A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY
INJUNCTION**

ANDREW G. CELLI, JR. declares, under penalty of perjury and pursuant to 28
U.S.C. § 1746:

1. I am a partner at the law firm of Emery Celli Brinckerhoff & Abady LLP,
attorneys for plaintiffs. I submit this declaration in support of plaintiffs’ motion for a temporary
restraining order and preliminary injunction, pursuant to Federal Rule of Civil Procedure 65,
(i) declaring that Advisory Opinion 16-01 (the “Opinion”) of the New York State Commission
on Public Ethics (the “Commission”) is invalid and unconstitutional insofar as it construes the
New York Lobbying Act, N.Y. Leg. Law §§ 1-a–1-v, to apply to public relations consultants and

others who do not engage in lobbying as traditionally defined; and (ii) enjoining the Commission from taking any enforcement action against plaintiffs based on the Opinion.

2. Because the Opinion, and the threat of its enforcement, violates plaintiffs' First and Fourteenth Amendment rights for the reasons stated in plaintiffs' accompanying Memorandum of Law, and thereby will cause irreparable harm unless enforcement is immediately restrained, plaintiffs ask this Court to preserve the status quo by restraining defendants from proceeding with any attempt to enforce the Opinion against them.

3. No previous application for this relief or similar relief has been made by any Plaintiff.

4. I have provided defendants, through their counsel, with telephonic notice of plaintiffs' motion for a temporary restraining order and preliminary injunction by placing telephone calls this morning to: (i) The Joint Commission on Public Ethics (via its Senior Counsel, Martin Levine, Esq.) and (ii) the Office of the New York State Attorney General (via Executive Deputy Attorney General Kent Stauffer, Esq.), which represents the Commission and the individual defendants, all members of the Commission, in their official capacities. I communicated to both offices my intent to file the present motion today.

5. Attached hereto as Exhibit 1 is a copy of Advisory Opinion 16-01.

6. Attached hereto as Exhibit 2 is a copy of a letter, dated July 10, 2015, sent by my firm to the Commission.

7. Attached hereto as Exhibit 3 is a copy of a letter, dated December 1, 2015, sent by my firm to the Commission.

8. Attached hereto as Exhibit 4 is a recording of an Open Meeting of the Commission on January 26, 2016.

9. Attached hereto as Exhibit 5 is a Declaration of William O'Reilly, on behalf of plaintiff The November Team, Inc., dated March 7, 2016.

10. Attached hereto as Exhibit 6 is a Declaration of Anat Gerstein, on behalf of plaintiff Anat Gerstein, Inc., dated March 7, 2016.

11. Attached hereto as Exhibit 7 is a Declaration of Jonathan Rosen, on behalf of plaintiff BerlinRosen Public Affairs, Ltd., dated March 6, 2016.

12. Attached hereto as Exhibit 8 is a Declaration of Risa Heller, on behalf of plaintiff Risa Heller Communications, dated March 7, 2016.

13. Attached hereto as Exhibit 9 is a declaration of Michael F. McKeon, on behalf of plaintiff Mercury LLC, dated March 7, 2016.

14. Attached hereto as Exhibit 10 is a declaration of Renee M. Wilson, president of the PR Council, dated March 3, 2016.

15. Attached hereto as Exhibit 11 is a declaration of Joseph P. Truncale, CEO of the Public Relations Society of America, dated March 7, 2016

16. Attached hereto as Exhibit 12 is a declaration of Roger Bolton, President of the Arthur W. Page Society, dated March 7, 2016.

Dated: New York, New York
March 8, 2016



ANDREW G. CELLI, JR.